

IN THE DRAWINGS

The attached drawings include changes to Figs. 1-4. These sheets, which include Figs. 1-4, replace the original sheets including Fig. 1-4.

Attachment: Replacement Sheets

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the above amendments and in light of the following discussion, is respectfully requested.

Claims 1-27 are pending in the application. Claims 1-20 are currently amended.

Claims 21-27 are new. No new matter is introduced.¹

In the Office Action, the Specification as originally filed was objected for an improper title and for informalities. The Figures 1-3 of the drawings were objected for informalities. Claim 14 was objected for an informality. Claims 2-3, 5-8, 10-14, and 15-20 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1-4, 9, 14-15, and 20 were rejected under 35 U.S.C. § 102(b) as anticipated by Peery (U.S. Patent No. 4,522,622). Claims 5-8, 10-13, and 16-19 were rejected under 35 U.S.C. § 103(a) as unpatentable over Peery in view of Staniforth (U.S. 2004/0071494).

With respect to the objection to the specification, submitted herewith a substitute specification. The substitute specification has an amended title that corresponds with the Application Data Sheet. The substitute specification corrects all instances of the trademark Silkis to include (*calcitriol*), per the Office Action's recommendation.² The Office Action also objected to the specification as originally filed for not supporting the limitation "a quantity of around 0.36g" recited in Claim 10 as originally filed. In response, amended Claim 10 recites "a quantity of 0.35g".³ Accordingly, the Applicants respectfully request that the objection to the specification be withdrawn.

With respect to the objection to the drawings, submitted herewith are substitute drawings that comply with 37 C.F.R. § 1.84. Accordingly, the Applicants respectfully request that the objection to the drawings be withdrawn.

¹ Amended Claims 1-20 and new Claims 21-27 find support in the claims as previously presented and at least at Figures 2 and 3.

² For example, see the substitute specification at p. 3, ln. 12.

³ Supported in the specification as originally filed at p.3, ln. 10.

With respect to the objection of Claim 14, amended Claim 14 now recites “according to claim 2” per the Office Action’s recommendation. Accordingly, the Applicants respectfully request that the objection to Claim 14 be withdrawn.

With respect to the rejection of Claims 2-3, 5-8, 10-14, and 15-20 under 35 U.S.C. § 112, second paragraph, as being indefinite Claims 2-3, 5-8, 10-14, and 15-20 are currently amended. References to the limitation “preferably” have been removed from all claims. Amended Claim 3 now recites “a first compartment, a second compartment, a third compartment, and a fourth compartment,” such that Claims 6-8 and 11-13, that depend therefrom, are now believed to be definite. Furthermore amended Claim 14 recites “a first compartment, a second compartment, a third compartment, and a fourth compartment,” such that Claims 16-19, that depend therefrom, are now believed to be definite. With respect to the rejection of Claim 15, amended Claim 15 recites “the graduations” which finds antecedent basis in Claim 2 from which Claim 15 depends. The Applicants believe that the rejected Claims are now definite and accordingly, it is respectfully requested that the rejection of Claim 2 under 35 U.S.C. § 112 second paragraph be withdrawn.

Amended Claim 1 recites a metering device for a product intended to be applied to the skin including an applicator stick with a longitudinal groove divided into a series of compartments. Amended Claim 1 further recites that the groove accommodates a quantity of composition corresponding to a defined surface area of skin to be treated. Furthermore, the quantity of the composition is defined by the series of compartments. Amended Claim 1 recites that the *groove defines an uncovered depression in a top surface of the applicator stick such that an entirety of the groove is exposed opposite the depression.*

Turning to the applied references, Figure 1 of Peery illustrates a manually operated multiple fluid pulse dispenser 1 including a base member 2 with a multiplicity of depressions

3.⁴ Peery further illustrates a cover sheet 4 with a multiplicity of raised blisters 5 that correspond to the depressions 3.⁵ The cover 4 and the base 2 are bonded such that fluid is retained in a reservoir created by the depressions 3 and blisters 5.⁶ Dispenser 1 further includes passageways 6 that allow discharge from the fluid reservoirs created by the depressions 3 and blisters 5.⁷ The passageways 6 are channels in base 2 which in cooperation with cover 4 provide a fluid flow path between the various reservoirs and a common outlet 7.⁸ The reservoirs are formed such that manual pressure on the blister 5 will cause the blister 5 to invert and force the contents of the reservoir to discharge out of the passageways 6.⁹ However, Peery does not suggest or disclose metering device including a *groove that defines an uncovered depression in a top surface of the applicator stick such that an entirety of the groove is exposed opposite the depression.* In Peery the cover 4 is bonded to base 2 such that enclosed reservoirs are formed. *Enclosed reservoirs* are not equivalent to *an entirety of a groove that is exposed*. Accordingly, Peery does not suggest or disclose all of the features of amended independent Claim 1.

Staniforth fails to cure the deficiencies of Peery. Figures 1-9 of Staniforth illustrates series of embodiments of a device 10 for topically treating the skin of a human or animal.¹⁰ Device 10 includes an applicator 11 and unit dose 14.¹¹ Staniforth also states that first portion 12 is coupled to unit dose 14 and a second portion 13 is configured to be held by a user.¹² However, Staniforth does not suggest or disclose a metering device including a *groove that defines an uncovered depression in a top surface of the applicator stick such that an entirety of the groove is exposed opposite the depression.* The Figures of Staniforth

⁴ See, Peery at col. 2, lns. 35-39

⁵ See, Peery at col. 2, lns. 39-41.

⁶ See, Peery at col. 2, lns. 42-46.

⁷ See, Peery at col. 2, lns. 47-49.

⁸ See, Peery at col. 2, lns. 49-52.

⁹ See, Peery at col. 2, lns. 62-66.

¹⁰ See, Staniforth at par. 0079.

¹¹ Id.

¹² Id.

illustrate several embodiments of a dosing device that are enclosed for a single use by a user.¹³ *Enclosed single use dosing devices* are not equivalent to a metering device where *an entirety of a groove is exposed*. Accordingly, Staniforth does not suggest or disclose all of the features of amended Claim 1.

Based on the foregoing, even the combined teachings of Peery and Staniforth do not suggest or disclose all of the features of amended independent Claim 1. Accordingly, it is believed that amended independent Claim 1 and Claims 2-20, dependant therefrom, are in condition for allowance.

New claims 21-27 which depend from independent Claim 1 are believed to be allowable for at least same reasons as independent Claim 1, and moreover new dependent Claims 21-27 recite features that are not disclosed or suggested by the cited references. For example, new Claim 21 recites the feature of a groove with a uniform cross sectional area in an axial direction of the groove. Peery instead illustrates circular reservoirs that have a cross sectional area greater in the middle of the reservoir compared to the edge of the reservoir. Accordingly, Peery does not disclose or suggest all of the features of new dependent Claim 21.

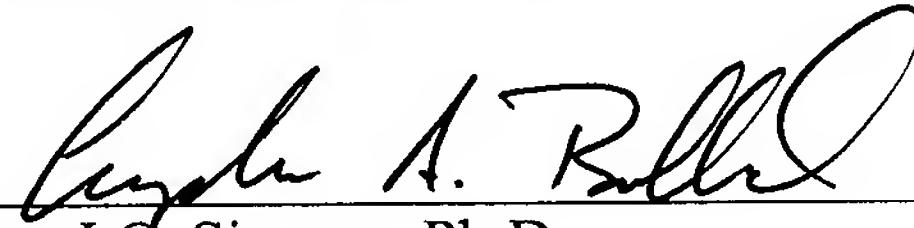
For the reasons discussed above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance for Claims 1-27 is earnestly solicited.

¹³ See, Staniforth Fig. 1-11, 13, and 21.

Should the Examiner deem that any further action is necessary to place this application in even better condition for allowance, Examiner is encouraged to contact the Applicants' undersigned representative at the below-listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Philippe J.C. Signore, Ph.D.
Attorney of Record
Registration No. 43,922

Christopher A. Bullard
Registration No. 57,644

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)